

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stacy Paver	Team: Team # 4	CCRB Case #: 200803804	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/15/2008 12:01 PM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 9/15/2009	EO SOL 9/15/2009	
Date/Time CV Reported Mon, 03/17/2008 9:22 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/17/2008 9:22 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Hoelmy Ramos	14563	934093	048 PCT
4. POM Raul Rodriguez	17182	939353	048 PCT
5. POF Oliva Carvajal	20401	938182	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Mcrae	31157	916200	048 PCT
2. POM James Eirand	01255	928240	048 PCT
3. POM Thomas Dybski	03106	926796	048 PCT
4. SGT Juanita Mills	04219	913647	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Raul Rodriguez	Off. Language: PO Raul Rodriguez made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
B.POF Oliva Carvajal	Force: PO Oliva Carvajal used pepper spray against § 87(2)(b)	§ 87(2)(b)
C.POM Hoelmy Ramos	Force: PO Hoelmy Ramos used pepper spray against § 87(2)(b)	§ 87(2)(b)
D. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
E. An officer	Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)	§ 87(2)(b)

Synopsis

On March 17, 2008, at approximately 9:22 AM, § 87(2)(b) called the CCRB and filed a telephone complaint against NYPD officers on her own behalf and on behalf of her § 87(2)(b)-year-old son, § 87(2)(b) (encl. 6a-b). Although § 87(2)(b) stated that the incident occurred on March 14, 2008, the investigation determined that the incident occurred on March 15, 2008.

On March 15, 2008, at approximately 12:00 PM, § 87(2)(b)'s husband, § 87(2)(b) and her son, § 87(2)(b) had a verbal dispute at their home, located at § 87(2)(b) § 87(2)(b) in the Bronx. § 87(2)(b) § 87(2)(b) called 911 and requested that § 87(2)(b) be removed from the home. PO Raul Rodriguez and PO Olivia Carvajal, both assigned to the 48th Precinct, arrived at the apartment and instructed § 87(2)(b) to leave the apartment. At some point, additional units were requested to the location and PO James Eirand, PO Thomas Dybski, PO Hoelmy Ramos, and PO Thomas McRae from the 48th Precinct arrived at the location, along with other officers. Outside of the apartment building, § 87(2)(b) yelled and acted disorderly. § 87(2)(b) alleged that as she faced her son, she heard PO Rodriguez allegedly state, "Get that nigger" and the same voice also state, "Take that nigger down." (**Allegation A**). § 87(2)(b) did not see which officer made this statement, and at this time, there were numerous officers present. § 87(2)(b) alleged that she turned her head to the side to see what was going on and PO Carvajal pepper sprayed her directly in her eyes (**Allegation B**). At the same time § 87(2)(b) § 87(2)(b) alleged she was pepper sprayed, PO Ramos pepper sprayed § 87(2)(b) (**Allegation C**). § 87(2)(b) § 87(2)(b) alleged that after she was pepper sprayed, she observed numerous officers, whom she could not identify, throw § 87(2)(b) to the ground and kick him in his face and chest (**Allegation D**). § 87(2)(b) § 87(2)(b) alleged that after she was pepper sprayed, she could not see where she was going and a male officer, whom she did not see and could not describe, stated, "Yea bitch" and asked, "You looking for my badge, bitch?" (**Allegation E**). § 87(2)(b) § 87(2)(b) was initially arrested for disorderly conduct, was then classified as an EDP, and was transported to § 87(2)(b) § 87(2)(b). An AIDED report was prepared for § 87(2)(b) which stated that PO Ramos used O.C. spray against him.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-year-old black female who at the time of her interview § 87(2)(b)

§ 87(2)(b) provided a statement at the CCRB on April 11, 2008. § 87(2)(g)

On March 15, 2008, at approximately 12:00 PM, § 87(2)(b) was inside of her apartment, located at § 87(2)(b) § 87(2)(b). She was inside of the apartment with her husband, § 87(2)(b) and her § 87(2)(b)-year-old son, § 87(2)(b) § 87(2)(b) and § 87(2)(b) had a verbal argument. Approximately ten minutes after the argument ended, § 87(2)(b) heard knocking on the front door of their apartment and observed two officers in uniform. Although § 87(2)(b) was unaware that anyone called the police, § 87(2)(b) called the police to have § 87(2)(b) removed from the home. There was no noise coming from within the apartment when the officers arrived. § 87(2)(b) opened the door and observed a male officer, PO Raul Rodriguez, and a female officer, PO Olivia Carvajal, who were both identified through the investigation. They stated that someone called the police from within their apartment. § 87(2)(b) never obtained these officers' names. When she opened the door, § 87(2)(b) was in the kitchen and § 87(2)(b) was in his bedroom.

§ 87(2)(b) described PO Rodriguez as a white male, with black hair, who is approximately 5'11" tall, weighed between 150 and 160 pounds, with brown eyes. She described PO Carvajal as a light-skinned black female, who is 5'3" tall, weighed between 120 and 130 pounds, in her late thirties, with black straight hair. § 87(2)(b) told the officers that her son and her husband were arguing earlier and they were both angry, but neither of them was "going at each other anymore."

PO Carvajal, PO Rodriguez, and § 87(2)(b) stood in the living room. § 87(2)(b) entered the living room from the kitchen. PO Rodriguez asked § 87(2)(b) what was going on and he replied, "Nothing." § 87(2)(b) then came out of the bedroom and told the officers, "I'm an old man. I'm sixty years old and I have a heart problem. I want him out." PO Rodriguez told § 87(2)(b) that he had to leave and § 87(2)(b) replied, "No I don't have to go, I live here." PO Rodriguez then told § 87(2)(b) that his father wanted him to leave so he had to leave. § 87(2)(b) and § 87(2)(b) did not tell the officers anything in regard to what happened and PO Rodriguez just told him to leave. § 87(2)(b) pulled out his identification and showed it to PO Rodriguez. § 87(2)(b) said, "I live here. My address is on here. See I live here." PO Rodriguez stated, "I don't care. You have got to go." PO Rodriguez did not tell him where he had to go and did not issue him any instructions other than that he had to leave.

§ 87(2)(b) was irritated and he yelled, "You can't put me out." § 87(2)(b) stated, "Let's go" and she pushed § 87(2)(b) out of the door because PO Rodriguez looked "irritated." § 87(2)(b) pushed him by pushing her body against his until he went out of the apartment door. They walked outside of the apartment building together. § 87(2)(b) walked § 87(2)(b) outside toward the street.

In the courtyard to the apartment building, § 87(2)(b) was yelling, "This is not right" and "You can't tell me what to do." § 87(2)(b) did not use profanity but he also yelled references to the Sean Bell shooting. While § 87(2)(b) was yelling in the courtyard, PO Rodriguez and PO Carvajal stood approximately ten steps away from where they stood.

§ 87(2)(b) pushed § 87(2)(b) to a mustard colored vehicle parked directly in front of the building on the same side of the street. The vehicle belongs to Sheryl Scott, § 87(2)(b)'s girlfriend. § 87(2)(b) entered the vehicle. § 87(2)(b) closed the driver's side door for him, stood in front of the driver's side door, and waited for § 87(2)(b) to leave. § 87(2)(b)'s back faced her apartment building and the officers were standing behind her. At that time, § 87(2)(b) had forgotten that in order for the car to start, § 87(2)(b) had to open the hood of the vehicle to connect wires to the battery. § 87(2)(b) asked him, "What are you doing?" When § 87(2)(b) exited the vehicle, there were approximately six marked police vans and patrol cars that had recently arrived. It took approximately five minutes for the additional officers to arrive once § 87(2)(b) reached the vehicle. § 87(2)(b) never heard PO Rodriguez or PO Carvajal call for backup. § 87(2)(b) stood in § 87(2)(b)'s way and he attempted to walk around her. No officer issued § 87(2)(b) any instructions.

§ 87(2)(b) looked over § 87(2)(b)'s shoulder but she did not know what he looked at. She then heard a male voice directly behind her say, "Get that nigger." § 87(2)(b) did not turn around, but stated that she knew that PO Rodriguez and PO Carvajal were behind her. The other officers were across the street and not directly behind her. § 87(2)(b) did not begin to yell and scream again. She then heard the same voice state, "Take that nigger down." § 87(2)(b) still faced § 87(2)(b) at this time. § 87(2)(b) stated that when this was said, there were other officers across the street but she heard the statement directly behind her. The officers and the patrol cars across the street were approximately ten feet from where she stood and the voice did not come from across the street. There were no civilians in the street at this time and only she and her son were outside. § 87(2)(b) then turned her head to the right and saw PO Carvajal pepper spray her directly in her eyes. § 87(2)(b) stated that § 87(2)(b) never witnessed anything that occurred outside.

§ 87(2)(b) stated the spray did not immediately affect her vision and she observed PO Rodriguez pepper spray her son. § 87(2)(b) yelled, "My eye, my eye, I am asthmatic, you can't spray me with that." § 87(2)(b) stated that she could have understood if her son was pepper sprayed in the courtyard because that was when he was screaming about Sean Bell, but nothing was going on when he was pepper sprayed and he was never issued any instructions.

§ 87(2)(b) stated that as a result of being pepper sprayed, she blinked a lot and while she was blinking, she observed approximately five officers rush toward § 87(2)(b) but did not state where the officers came from. She observed that he was thrown to the ground, kicked in the face, and kicked in the chest by officers. She could not state which officers did so or where they came from. § 87(2)(b) stated, “Ma, they are kicking me in the face.” He was handcuffed while he was on the ground. That was the last thing § 87(2)(b) could see. She could not provide a description of the officer or officers that kicked § 87(2)(b). She only saw the officer’s foot when her son was kicked. When he was kicked, he was already on the ground.

After she was pepper sprayed, § 87(2)(b) attempted to go to her house but because she could not see, she walked into the middle of the street. § 87(2)(b) stood between two parked cars and a male officer (PO3) stated, “Yea bitch, you lookin’ for my badge bitch? Look. Look.” PO3 was tall and because her eye level was at his chest and all she saw was that he wore a uniform. She never observed the race of this officer and never saw his name, and did not explain how she was able to see her surroundings but not the name of the officer that was directly in front of her. § 87(2)(b) did not make this allegation to CCB in her initial statement.

While she was in the middle of the street, she realized that she was standing in front of the officers’ van which they had placed her son in because she heard, “Lady, move out of the way, you are going to get hit by the car.” She did not explain how she knew that she stood in front of the patrol van, or that her son was placed in a patrol van, if she was not able to see. Because she could not see well she asked where she was. She heard people laughing at her when she asked this. § 87(2)(b) explained that she blinked a lot and tried to see although it was very difficult. A black bald male officer (PO4) approached § 87(2)(b) at this time. § 87(2)(b) did not explain how she was able to see and describe PO4 if she could not see where she was going or any other officers. PO4 asked, “Mama, what caused this?” § 87(2)(b) replied that she did not know. PO4 stated, “Well, I am going back to that precinct now and I’m going to raise some hell because what they did to you was wrong, because I didn’t see anything happening.” § 87(2)(b) asked PO4 for help back to her house because she could not see where to go. PO4 walked her to her apartment door and told her not to use cold water on her eyes, but to use warm water, which would dilute the pepper spray faster.

PO4 left her at her apartment door and § 87(2)(b) then washed out her eyes with warm water. § 87(2)(b) never requested medical treatment, she was not offered medical treatment, and she did not seek any medical treatment as a result of this incident.

§ 87(2)(b) was not arrested, but rather transported to the psychiatric ward of § 87(2)(b) in the Bronx. § 87(2)(b) observed later that § 87(2)(b)’s left side of his face was swollen. She did not know if he had any injuries to his chest and stated that in the past, § 87(2)(b) was shot in the chest, which he still had scars from. He was released from the hospital two days later and returned to where § 87(2)(b) resides.

No officer asked § 87(2)(b) for her name or for identification and they did not fill out any reports for her. § 87(2)(b) is a heart patient and takes nitro glycerin. She also is asthmatic.

Results of Investigation

Attempts to Contact Victim

§ 87(2)(b)

§ 87(2)(b) filed a complaint against New York City police officers on her own behalf as well as on behalf of her son, § 87(2)(b). On March 24, 2008, the undersigned called § 87(2)(b). At this time, he stated that he was not arrested and was released when the officers realized they had the wrong individual in custody, but this was after he was “beaten” and “maced.” He did not make any allegations of offensive language and made no allegations on behalf of his mother. § 87(2)(b) scheduled an appointment at the CCRB for April 2, 2008. § 87(2)(b) was sent a contact letter on March 24, 2008. On March 28, 2008, § 87(2)(b) called the undersigned and stated that § 87(2)(b) was not going to appear for his scheduled appointment because § 87(2)(b) had an incident with his girlfriend that involved an Order of Protection. She further stated that she “heard” that § 87(2)(b) put lighter fluid somewhere on his girlfriend’s property and attempted to light it. § 87(2)(b) stated that she had not heard from § 87(2)(b) since March 24, 2008, and added that he was a

fugitive. She stated that she did not have any contact information for him and did not know his whereabouts. During her CCRB statement on April 11, 2008, § 87(2)(b) stated that she did not know the whereabouts of her son and neither did his girlfriend. He was not living in her home and she had not heard from him. She stated that he is missing because of a different incident that occurred. She also stated that § 87(2)(b) was not incarcerated. On April 15, 2008, the New York City Department of Corrections inmate locator was searched for § 87(2)(b) which yielded no findings. On May 20, 2008, the undersigned called § 87(2)(b) § 87(2)(b) stated that her son had been cleared from the incident involving his girlfriend and she stated that he was not present, but should be returning to the apartment later that date. It was explained that he needed to decide whether or not he was going to provide a statement to the CCRB. § 87(2)(b) stated that he was not interested in providing a statement, but she would give him the message and stated that if he were interested in pursuing the complaint, he would return the call. To date, there has been no response from § 87(2)(b).

Officer Statements

PO Olivia Carvajal

On March 15, 2008, PO Carvajal, a two-year veteran of the NYPD, assigned to the 48th Precinct, worked from 7:00 AM through 3:40 PM. She was assigned to sector patrol, worked with PO Raul Rodriguez, wore a uniform, and was assigned to a marked patrol car (encl. 22a-h). PO Carvajal is a Hispanic female who is 5'8" tall, 150 pounds, with black and blonde hair and brown eyes.

PO Carvajal provided the following memo book entries regarding this incident:

1234: § 87(2)(b) § 87(2)(b)
1320: 92C
1400: 98 to SBH Pepper Sprayed (encl. 10a-c)

On July 3, 2008, PO Carvajal was interviewed at the CCRB (11a-c).

On March 15, 2008, at approximately 12:01 PM, PO Carvajal and PO Rodriguez responded to a family assault with a knife at § 87(2)(b) in the Bronx. PO Carvajal and PO Rodriguez were assigned to the call and they were the first officers to respond to the location. When they arrived at the location, they entered the apartment and determined the call was a dispute and there was not a knife involved. Only PO Carvajal and PO Rodriguez entered the apartment. § 87(2)(b) acted "disorderly" with his father. The father stated that he wanted § 87(2)(b) who was an adult in his thirties, to leave the house because he did not live there. § 87(2)(b) told officers that he would not leave the house and that if he were to leave the house, PO Carvajal and PO Rodriguez would have to take him out of the house "like the officers in Queens did with Sean Bell."

PO Carvajal was shown a photograph of § 87(2)(b) and she stated that she recognized her being present inside of the apartment. § 87(2)(b) attempted to get in between § 87(2)(b) and the officers and PO Rodriguez instructed § 87(2)(b) to move out of the way so they could escort § 87(2)(b) out of the house. § 87(2)(b) did not comply with the officers' instructions. Because § 87(2)(b) acted disorderly and continued to interfere with the officers escorting § 87(2)(b) out of the apartment, they called for backup.

PO Rodriguez then escorted § 87(2)(b) out of the home. PO Rodriguez held onto § 87(2)(b)'s arm and walked him outside. § 87(2)(b) exited the apartment building as well. At no time did § 87(2)(b) escort § 87(2)(b) outside of the apartment. § 87(2)(b) then began to move his arms and throw them around. He also used profanity toward the officers and told the officers that he would cause a riot. The officers told § 87(2)(b) that he had to leave the area and if he did not, he would be arrested. § 87(2)(b) refused to leave the area. At no time did § 87(2)(b) enter a vehicle (other than a patrol car), attempt to enter a vehicle, or state that he was going to leave the incident location. While PO Carvajal, PO Rodriguez, § 87(2)(b) and § 87(2)(b) were outside, other vehicles arrived at the location, although PO Carvajal did not recall how many vehicles or how many officers were present. PO Carvajal did not know where the officers went or what they did when they arrived.

At no time did she or any other officer state, “Get that nigger” when referring to § 87(2)(b). No officer used any offensive language. While § 87(2)(b) was moving his arms and refusing to comply with officers, he was pepper sprayed. PO Carvajal did observe § 87(2)(b) being pepper sprayed, although she did not recall which officer pepper sprayed him. She described § 87(2)(b) as a very “big” individual and stated that he was between 6’2” and 6’3” tall and weighed over 200 pounds. Officers were not able to control § 87(2)(b). PO Carvajal was then asked if she recalled if PO Ramos was present. She stated that she did recall PO Ramos being present but she did not recall if he pepper sprayed anyone. It is unknown where § 87(2)(b) stood when § 87(2)(b) was pepper sprayed.

When § 87(2)(b) was pepper sprayed, PO Carvajal did not recall where § 87(2)(b) stood. She did not know how far away § 87(2)(b) was at this time and she stated that since § 87(2)(b) was pepper sprayed in an outdoor location, anybody could have been affected by spray as well. PO Carvajal never discharged any pepper spray and never took out her pepper spray. PO Carvajal herself was affected by pepper spray as a result of § 87(2)(b) being sprayed.

While § 87(2)(b) was being handcuffed, PO Carvajal stood to either the right or left side of § 87(2)(b) and PO Rodriguez stood on the other side of § 87(2)(b). § 87(2)(b) stood between three and four feet from the officers and § 87(2)(b) when he was handcuffed. When § 87(2)(b) was handcuffed, § 87(2)(b) was no longer interfering. § 87(2)(b) was handcuffed in front of § 87(2)(b) in the street, near the doorway. Other officers aside from her and PO Rodriguez were present when § 87(2)(b) was handcuffed. When a sergeant arrived on the scene, § 87(2)(b) was classified as an EDP. She stated that Sgt. Mills, a female officer, is the supervisor who arrived on the scene. Other officers assisted in the handcuffing of § 87(2)(b) although she did not recall any of the other officers that were present. PO Carvajal did not place handcuffs on § 87(2)(b).

§ 87(2)(b) was immediately transported to the stationhouse after he was handcuffed. PO Carvajal did not know if other officers remained on the scene after they left to transport § 87(2)(b).

PO Carvajal never observed PO Nedd, PO West, PO Eirand, or PO Dybski during this incident. § 87(2)(b) never complained of any injury or of being pepper sprayed. No officer stated, “Yea bitch, you looking for my badge, bitch?” No officer made any statements based on race or gender during this incident. She did not recall if any black male officers were present. PO Carvajal did not observe any officer escort § 87(2)(b) to her apartment and did not hear that § 87(2)(b) was pepper sprayed from any other officer. PO Carvajal did not observe any bystanders and no other civilians interfered during this incident.

PO Raul Rodriguez

On March 15, 2008, PO Rodriguez, a two-year veteran of the NYPD, assigned to the 48th Precinct, worked from 7:05 AM through 3:40 PM. He was assigned to Sector C, worked with PO Carvajal, wore a uniform, and was assigned to marked patrol car # 2227 (ENCL. 22A-H). PO Rodriguez is a Hispanic male who is 6’0” tall, weighs 220 pounds, with brown hair and brown eyes.

PO Rodriguez provided the following memo book entries regarding this incident:

1300- 52 G § 87(2)(b)
1313- 1 under § 87(2)(b)
1400- sent to § 87(2)(b) injured unidentified PO, myself, and partner (encl. 12a-c).

Aided Report

PO Rodriguez prepared an AIDED report for § 87(2)(b) on March 15, 2008. The incident occurred at § 87(2)(b). The report showed that § 87(2)(b) was emotionally disturbed and he was removed to § 87(2)(b) (ACR# § 87(2)(b)). The report stated that, “At T/P/O aided acted in an erratic manner and out of control.” The report showed that § 87(2)(b) refused a lawful order and PO Ramos, assigned to the 48th Precinct, “discharged O.C. spray on the aided (EDP).” § 87(2)(b) did not provide a statement and therefore did not sign a medical release form to obtain his medical records (encl. 12d-h).

CCRB Statement

On July 7, 2008, PO Raul Rodriguez was interviewed at the CCRB (encl. 13a-c).

§ 87(2)(g)

§ 87(2)(b) escorted § 87(2)(b) outside of the house. § 87(2)(b) became “belligerent” and told PO Rodriguez that he was going to “kick his ass” and “beat the shit out of [him].” PO Rodriguez then radioed for other sector patrols to respond to the incident location in case anything “got out of hand.” As § 87(2)(b) continued to verbally abuse PO Rodriguez, he decided to arrest § 87(2)(b) for § 87(2)(b). Approximately three cars arrived as backup within approximately forty seconds after PO Rodriguez requested backup. Sgt. Mills arrived on the scene with her partner who was a female. There were unidentified plainclothes officers present as well. PO Rodriguez recalled a marked patrol car and a van that were present.

At no time did § 87(2)(b) enter a vehicle or attempt to enter a vehicle. § 87(2)(b) never stated that he would leave. He repeatedly stated he would not leave and that he was going to kick PO Rodriguez’s ass.

PO Rodriguez took out his handcuffs and attempted to handcuff § 87(2)(b) while they stood on the sidewalk in front of the apartment building. § 87(2)(b) attempted to pull his arms away from PO Rodriguez’s grip and he resisted arrest. PO Carvajal stood behind PO Rodriguez and other unknown officers stood slightly further behind them. § 87(2)(b) stood in between PO Rodriguez and § 87(2)(b) as she tried to prevent PO Rodriguez from handcuffing her son. § 87(2)(b) pushed PO Rodriguez back from her son. Before PO Rodriguez could handcuff § 87(2)(b) he was sprayed with pepper spray when § 87(2)(b) was pepper sprayed by PO Ramos. When § 87(2)(b) was pepper sprayed, § 87(2)(b) stood in front of § 87(2)(b) and close to the officers. PO Rodriguez stated that it was likely that § 87(2)(b) received pepper spray in her eyes because of her proximity to § 87(2)(b) when he was sprayed because the spray splatters. He also stated that without even being directly sprayed, one can feel the effects of the pepper spray from being in the vicinity of the discharge. PO Carvajal was sprayed as well. PO Rodriguez then stepped back and rubbed his eyes. He did not handcuff § 87(2)(b) and never observed who handcuffed § 87(2)(b) or who placed him in the van. After PO Rodriguez was pepper sprayed, he remained at the incident location for approximately three minutes. He did not know who transported § 87(2)(b) and he stated that he did not do so because he could not see so he could not drive. He went to the stationhouse with PO Carvajal.

§ 87(2)(b) was transported to the stationhouse in a van. At the precinct, § 87(2)(b) continued to state that he wanted to “kick [PO Rodriguez’s] ass.” He stated that he was not going to go down and if they want to take him down, “they have to do me like Abner Luima.” § 87(2)(b) was then classified as an EDP. EMS arrived at the stationhouse and transported him to § 87(2)(b). PO Rodriguez went to the hospital as well to have his eyes looked at.

PO Rodriguez stated that he never stated, “Get that nigger” and no other officer made that statement. Aside from PO Ramos, no other officer discharged any pepper spray during this incident. § 87(2)(b) was never pepper sprayed directly. PO Rodriguez never heard § 87(2)(b) complain of any injury. No officer stated, “Yea bitch, are you looking for my badge, bitch” to § 87(2)(b). PO Rodriguez was never asked for his name or shield number. PO Rodriguez did not observe any officer assist § 87(2)(b) back to her apartment. PO Rodriguez did not know if any officers remained at the incident location after he left. No officer used any offensive language.

When asked if certain officers were present during this incident, PO Rodriguez did not recall if PO Nedd, PO West, or PO McRae were present, but recalled that PO Eirand and PO Dybski were present.

PO Hoelmy Ramos

On March 15, 2008, PO Ramos, a four-year veteran of the NYPD, assigned to the 48th Precinct, worked from 9:00 AM through 5:35 PM. He was assigned to conditions, worked with PO Thomas McRae, wore a uniform, and was

assigned to RMP # 5674 (encl. 22a-h). PO Ramos is a Hispanic male who is 5'10" tall, 170 pounds, with brown hair and brown eyes.

PO Ramos did not have his memo book during his CCRB interview; however, he had his memo book in the patrol car which he provided after the interview. PO Ramos's memo book did not have any memo book entries regarding this incident. The following entries were around the approximate time of the incident:

1140: 75V at 800 East 180th Street.

1147: 91 NY result # 6545

1158: 59 at 840 Bx Park South

1206: 91 FD (encl. 8a-c).

On June 5, 2008, PO Ramos was interviewed at the CCRB (encl. 9a-c).

On March 15, 2008, at approximately 12:01 PM, PO Ramos responded as backup to a domestic dispute. There was a male and a female officer on the scene of the incident when they arrived who escorted a male, § 87(2)(b). The officers and § 87(2)(b) were outside of § 87(2)(b) when he arrived. Other officers arrived after PO Ramos, but only the male officer and female officer were present when he initially arrived. He did not recall which officers were present or any other officers that were present during this incident aside from his partner. He did not recall who the female officer was. He heard an officer tell § 87(2)(b) to leave the area for a couple of hours. He did not recall which officer stated this. § 87(2)(b) replied that he did not care and that he was not going anywhere.

§ 87(2)(b)'s mother was present during the incident. PO Ramos recalled that § 87(2)(b)'s mother was present. § 87(2)(b) told § 87(2)(b) to leave and to pay attention to the officers. § 87(2)(b) continued to yell that he was not going anywhere and that the reason he had a knife in his hand was because his father had a gun. He did not have a knife in his hand when PO Ramos arrived.

PO Ramos did not know if § 87(2)(b) entered his vehicle, but he knew that he had a car because he was told to leave and he would not enter his vehicle to leave. When § 87(2)(b) was ordered to leave, PO Ramos was across the street, almost toward the sidewalk, which was between eight and ten feet from where § 87(2)(b) stood. Only PO Mcrae stood near PO Ramos. He was able to hear what the officers were saying to § 87(2)(b) from where he stood. He stated that § 87(2)(b) then pushed an unidentified male officer. When he pushed the officer, the officer was moved approximately five feet into either a minivan or a vehicle. PO Ramos believed that the female officer was in the vicinity of where § 87(2)(b) stood and he was not sure if there was more than one female officer present.

§ 87(2)(b) was screaming. PO Ramos did not know where § 87(2)(b) was at the time § 87(2)(b) pushed the officer. PO Ramos then ran up to § 87(2)(b) and pepper sprayed him. § 87(2)(b) was screaming and PO Ramos did not want the situation to escalate because the situation began as a domestic dispute. He explained that § 87(2)(b) was a "large" male and pepper spraying was the "least necessary force [he] could use to subdue him." § 87(2)(b) was at least 250 pounds and between 5'11" tall and 6'0" tall.

PO Ramos did not observe § 87(2)(b) at this time and he did not know where she was. He stated that he probably sprayed the other police officers but not § 87(2)(b). After § 87(2)(b) began the "scuffle," someone had put the incident over the air and more backup arrived. He did not know how many vehicles arrived. § 87(2)(b) asked officers not to handcuff § 87(2)(b) or to take him away, although PO Ramos did not know if she was physically interfering with officers at any time during this incident.

After § 87(2)(b) was pepper sprayed, two unidentified officers "jumped in" and one of those officers handcuffed § 87(2)(b). PO Ramos grabbed § 87(2)(b)'s hand but never placed handcuffs on him. § 87(2)(b) did not want to leave and he pushed back as he was being handcuffed. Although PO Ramos was assigned to the patrol van, he stated that § 87(2)(b) was placed in a patrol van and was taken to the stationhouse by unidentified officers. He did not know what § 87(2)(b) was arrested for. He did not have any knowledge of § 87(2)(b) going to a psychiatric ward of a hospital.

He stated he did not see any officer pepper spray § 87(2)(b) and he stated that he only paid attention to § 87(2)(b) who was the aggressor because § 87(2)(b) did not pose any threat. At no time did he observe any injuries on § 87(2)(b) and at no time did he hear her complain of any injuries.

At no time did he or any other officer state, “Get that nigger” or “take that nigger down.” § 87(2)(b) was handcuffed standing up and he was not on the ground at any time. No officer kicked § 87(2)(b) in the face or in the chest.

No officer asked § 87(2)(b) “Bitch, are you looking for my badge, bitch?” No officer used offensive language. His partner, PO McRae is a black male officer. PO McRae never walked § 87(2)(b) to her door. PO Ramos stated that he did not separate from his partner at any time.

PO Ramos never entered the apartment building and was not present at any time during the initial police interactions regarding this call.

PO Thomas McRae

On March 15, 2008, PO McRae, a thirteen-year veteran of the NYPD, assigned to the 48th Precinct, worked from 9:30 AM through 6:05 PM. He was assigned to sector patrol and wore uniform. The undersigned investigator showed PO McRae the roll call. He stated that he worked with PO Ramos as stated on the roll call (encl. 22a-h). PO McRae is a black male who is 5’11” tall, weighs 225 pounds, with black hair and brown eyes.

PO McRae did not bring his memo book with him to the interview. He stated he believed he had memo book entries regarding the incident and he would fax his memo book to the CCRB.

On August 13, 2008, PO McRae was interviewed at the CCRB (encl. 20a-b).

On March 15, 2008, at approximately 12:40 PM, PO McRae worked with PO Ramos. They received a radio call for an additional unit. No further information was provided. When they arrived at the location, there were already three marked patrol cars present. PO Carvajal and PO Rodriguez were present. When he arrived at the location, PO McRae observed § 87(2)(b) seated in a patrol car and § 87(2)(b) was outside of the vehicle “yelling” and “screaming.” § 87(2)(b) looked as though she were crying. She used profanity, but PO McRae did not specifically recall what she said. He did not see a physical struggle between § 87(2)(b) and any officer. § 87(2)(b) stood on the sidewalk in front of her apartment building. There were civilians from the building who stood near § 87(2)(b). He did not observe any officer speak with § 87(2)(b) or stand with her. Their vehicle was parked on the opposite side of the street, approximately two car lengths ahead of the patrol car § 87(2)(b) was seated in. There were approximately three officers that stood near the patrol car in which § 87(2)(b) was seated.

PO McRae stated he did not observe any officer pepper spray anyone and he stated that he never took his pepper spray out. He also stated that PO Ramos did not pepper spray anyone.

PO McRae stated that no officer used the word “nigger.” § 87(2)(b) never asked PO McRae for his name or shield number and he did not hear her ask any other officer for name or shield number. No officer used the word “bitch.”

§ 87(2)(b) was transported to the stationhouse. PO McRae did not speak with either § 87(2)(b) or § 87(2)(b).

PO McRae stated that he never exited the patrol car. He stated that he did not believe PO Ramos exited the vehicle. He stated that they just sat there to make sure everything was alright. He was at the location for approximately ten minutes.

He later found out from other officers that there was a dispute between § 87(2)(b) and his father. He did not recall the officer that communicated that to him. He did not see Sgt. Mills at the incident location and stated that he only observed one female at the location.

PO James Eirand

On March 15, 2008, PO Eirand, a seven-year veteran of the NYPD, assigned to the 48th Precinct, worked from 7:05 AM through 3:40 PM. He was assigned to Sector B, worked with PO Thomas Dybski, wore a uniform, and was assigned to RMP #2393 (encl. 22a-h). PO Eirand is a white male who is 5'11" tall, 220 pounds, with brown hair and brown eyes.

PO Eirand provided the following memo book entries regarding this incident:

1240: 85 48C at § 87(2)(b) § 87(2)(b)
1259- 98 (encl. 16a-c).

On August 13, 2008, PO Eirand was interviewed at the CCRB (encl. 17a-b).

On March 15, 2008, at approximately 12:40 PM, he and PO Dybski received a radio call for additional units to back up officers at § 87(2)(b) § 87(2)(b). When he and PO Dybski arrived at the incident location, they went inside of the apartment building. PO Rodriguez and PO Carvajal were already inside of the apartment. Inside of the apartment, § 87(2)(b) appeared to be upset and he yelled at § 87(2)(b) and yelled at PO Rodriguez and PO Carvajal. § 87(2)(b) argued with § 87(2)(b) and asked him to leave. PO Eirand remained in the apartment for approximately five minutes and he did not have any verbal communication with § 87(2)(b) or § 87(2)(b). § 87(2)(b) then walked outside of the apartment building, along with PO Rodriguez, PO Carvajal, PO Dybski, PO Eirand, and § 87(2)(b). No officer escorted § 87(2)(b) outside and § 87(2)(b) did not have physical contact with § 87(2)(b) when he walked outside.

As they walked outside of the apartment building, PO Eirand observed many officers that responded as backup. Once outside, § 87(2)(b) began to yell and scream in officer's faces. PO Eirand did not recall if § 87(2)(b) ever attempted to enter a vehicle.

Officers attempted to place § 87(2)(b) under arrest for § 87(2)(b). At that time, § 87(2)(b) attempted to get involved. PO Eirand held § 87(2)(b) back so that she did not get involved with the officers. She was attempting to grab § 87(2)(b) away from the officers. PO Eirand stood next to § 87(2)(b) and faced away from § 87(2)(b) and the officers that were handcuffing him. PO Eirand asked § 87(2)(b) to step away and had to grab § 87(2)(b)'s arm, but she then stayed back on her own. She stood approximately ten feet away from where § 87(2)(b) was at this time. PO Eirand did not discharge his pepper spray and did not see or hear of any other officer that did. He stated no one was pepper sprayed that he was aware of. PO Eirand never observed § 87(2)(b) rub her eyes or state that she could not see.

At no time did PO Eirand state to "take that nigger down" or did he use the word "nigger." PO Eirand did not hear any other officer use the word "nigger." At no time was he asked for his name or shield number and he did not hear § 87(2)(b) ask any other officer for their name or shield number. PO Eirand never stated "Bitch, are you looking for my badge, bitch?" He also stated that no officer called § 87(2)(b) a "bitch."

PO Eirand did not observe any officers' interactions with § 87(2)(b). PO Eirand stated that he did not see Sgt. Mills on the scene and he did not recall if any sergeant responded to the incident location. He did not recall any other officers that were present. PO Eirand did not escort § 87(2)(b) back to her apartment and did not see any other officer escort her.

PO Eirand did not observe her in the middle of the street at any time and he stated that he only observed her on the sidewalk. PO Eirand did not know if § 87(2)(b) hit or pushed an officer. He stated that he was not aware if any civilian was removed to a hospital.

PO Thomas Dybski

On March 15, 2008, PO Dybski, an eight-year veteran of the NYPD, assigned to the 48th Precinct, worked from 8:00 AM through 4:00 PM. He was assigned to sector patrol, worked with PO Eirand, wore a uniform, and was assigned to RMP #2393 (encl. 22a-h). PO Dybski is a white male who is 5'8" tall, 220 pounds, with brown hair and green eyes.

PO Dybski provided the following memo book entries regarding this incident:

1240: 85 48C at [§ 87(2)(b)] [§ 87(2)(b)]
1259- 98 (resume patrol) (encl. 18a-b).

On August 13, 2008, PO Dybski was interviewed at the CCRB (19a-c).

On March 15, 2008, at approximately 12:40 PM, PO Dybski and PO Eirand were in the 48th Precinct, Sector C, when they received a radio call to back up officers at [§ 87(2)(b)]. When they arrived at the location, they entered apartment 1E. PO Dybski asked the officers if everything was alright and PO Rodriguez stated that everything was alright except that [§ 87(2)(b)] was acting disorderly. Also present in the apartment was PO Carvajal. PO Dybski learned that [§ 87(2)(b)] wanted her son out of her apartment. PO Dybski observed that [§ 87(2)(b)] acted, "a little disorderly" when he entered the apartment, but he was about to leave the apartment. [§ 87(2)(b)] exited the apartment of his own free will and no one walked him out or held on to his person.

When [§ 87(2)(b)] was outside of the apartment building, he began to yell and curse. PO Dybski did not recall what [§ 87(2)(b)] stated. Other units responded to the location. When the other police units arrived at the location, [§ 87(2)(b)] began to yell more and act more disorderly. Approximately four additional officers arrived in vehicles. He did not recall how many vehicles arrived. He did not recall any officer that arrived as backup. PO Dybski did not recall seeing Sgt. Mills present at the location and he did not recall if any sergeant was present during this incident.

[§ 87(2)(b)] was outside of the apartment building as well. PO Dybski did not recall [§ 87(2)(b)] say anything while they were outside and he recalled that she only stood there. At no time did PO Dybski observe [§ 87(2)(b)] enter a vehicle or attempt to enter a vehicle.

PO Dybski stated that he was present when [§ 87(2)(b)] was placed under arrest, which happened approximately five minutes after [§ 87(2)(b)] exited the apartment building. He stated that it was the other officers' decision to arrest [§ 87(2)(b)]. PO Dybski did not recall [§ 87(2)(b)] having any physical contact with any officer. [§ 87(2)(b)] was handcuffed on the sidewalk, while he stood against a car. PO Dybski did not pepper spray anyone, never took his pepper spray out, and did not observe any officer pepper spray any civilian. He also did not hear of anyone being pepper sprayed. PO Dybski assisted PO Rodriguez and between two and three other officers in handcuffing [§ 87(2)(b)]. PO Dybski helped bring [§ 87(2)(b)]'s arms toward his back. He did not recall who the other officers who assisted were.

PO Dybski did not see where [§ 87(2)(b)] was while [§ 87(2)(b)] was being handcuffed. He stated that he only knew she was outside and he did not observe where she was at any time when he was outside, although he added, "She wasn't near us." PO Dybski stated that [§ 87(2)(b)] was not in the way.

PO Dybski did not observe [§ 87(2)(b)] on the ground at any time. He never heard [§ 87(2)(b)] say anything and he never heard her request medical treatment from any officer. He never observed her rubbing her eyes and he never heard her state that she was pepper sprayed.

PO Dybski stated that no officer used the word "nigger." PO Dybski did not observe any officer escort [§ 87(2)(b)] back to her apartment and he did not do so. PO Dybski was never asked for his name or shield number and he did not hear [§ 87(2)(b)] ask any other officer for their name or shield number. PO Dybski never stated, "Yea bitch, are you looking for my badge?" He stated that no officer used the word "bitch." Neither [§ 87(2)(b)] nor [§ 87(2)(b)] complained of any injuries.

Sgt. Juanita Mills

On March 15, 2008, Sgt. Mills, a seventeen-year veteran of the NYPD, assigned to the 48th Precinct, worked from 6:55 AM through 3:52 PM. She was assigned as patrol supervisor, worked with PO Delacruz, wore a uniform, and was assigned to marked patrol car #1700 (encl. 22a-h). Sgt. Mills is a black female who is 5'4" tall with black hair.

Sgt. Mills's memo book does not have any entries around the approximate time of the incident (encl. 14a-b).

On July 21, 2008, Sgt. Mills was interviewed at the CCRB (encl. 15a-b).

Sgt. Mills stated that on March 15, 2008, she never went to [REDACTED] § 87(2)(b) [REDACTED]. She stated that she was at a different incident location, but she could not recall where she was. She stated that her partner, PO Delacruz, who is female, was with her at the other incident location as well.

Sgt. Mills was called to respond to the hospital because PO Carvajal and PO Rodriguez were there having their eyes flushed from a discharge of pepper spray. Sgt. Mills went to the hospital with PO Delacruz. Sgt. Mills stated that she was informed that they were being transported to the hospital while she was still at the location of the other incident.

Nothing was communicated to her about what occurred at the incident location other than that pepper spray was used. Sgt. Mills did not know who the pepper spray was used against. When she went to the hospital, she solely dealt with officers. Sgt. Mills did not know if a sergeant responded to [REDACTED] § 87(2)(b) [REDACTED] and she did not know any officers that responded as backup to the incident.

Police Documents

48th Precinct Roll Call

The 48th Precinct roll call showed that Sgt. Juanita Mills worked that date, was assigned to vehicle number 1700, and was the patrol supervisor. PO Eirand and PO Dybski were assigned to Sector B, vehicle number 2393, and worked from 7:05 AM through 3:40 PM. PO Carvajal and PO Rodriguez were assigned to sectors C and D, vehicle # 2771, and worked from 7:05 AM through 3:40 PM. PO Ramos and PO McRae were assigned to conditions and worked from 9:30 AM through 6:05 PM (encl. 22a-h).

48th Precinct Command Log

The command log showed that § 87(2)(b) [REDACTED] was arrested at 1:00 PM on March 15, 2008 by PO Rodriguez. It was noted that he was in apparently normal condition and he was charged with § 87(2)(b) [REDACTED]. The side margin showed that a UF-250 was completed and § 87(2)(b) [REDACTED] was released at 1:40 PM (encl. 23).

SPRINT

§ 87(2)(b) [REDACTED] called 911 on March 15, 2008, at 12:44 PM and stated that his son pulled a butcher knife on him. He had no injuries. The 48th Precinct, Sector A responded and at 1:38 PM, an arrest for family dispute was marked. Sector C arrived and an arrest for a crime was made Sector B resumed patrol at 12:50 PM. A sergeant arrived and verified the arrest. An individual on the scene was maced and the sergeant was notified that the individual was maced at 12:57 PM (encl. 21a-b).

Civilian CCRB Histories and Arrest Histories

§ 87(2)(b) [REDACTED] previously filed § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] A search of the Booking, Arraignment, and Disposition System revealed that § 87(2)(b) [REDACTED] had never been convicted of any crimes in New York City.

§ 87(2)(b) previously filed § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) A search
of the Booking, Arraignment, and Disposition System revealed that § 87(2)(b) had § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Officer CCRB Histories

PO Olivia Carvajal is a three-year veteran of the NYPD and has no substantiated allegations on her record (encl. 2).

PO Hoelmy Ramos is a five-year veteran of the NYPD and has no substantiated allegations on his record (encl. 3).

PO Raul Rodriguez resigned from service on September 2, 2008 (encl. 1).

Conclusions and Recommendations

Officer Identification and Pleading Allegations

The SPRINT indicated that Sectors A, B, and C responded to the incident along with a sergeant (encl. 21a-b). PO Eirand and PO Dybski were assigned to Sector B. PO Eirand is a white male who is 5'11" tall, weighs 220 pounds, and has brown hair and brown eyes. PO Dybski is a white male who is 5'8" tall, 220 pounds, with brown hair and green eyes. PO Carvajal and PO Rodriguez were assigned to Sectors C and D. PO Carvajal is a Hispanic female who is 5'8" tall, weighs 150 pounds, and has black hair and brown eyes. PO Rodriguez is a Hispanic male who is 6'0" tall, weighs 220 pounds, with brown hair and brown eyes. The AIDED report indicated that PO Ramos is the officer who discharged O.C. spray (encl. 12d-h). PO Ramos worked with PO McRae and they were assigned to conditions. PO Ramos is a Hispanic male who is 5'10" tall, 170 pounds, with brown hair and brown eyes. PO McRae is a black male who is 5'11" tall, weighs 225 pounds, with black hair and brown eyes. The only sergeant that did not have a stationhouse assignment and who could have responded to the incident location was Sgt. Mills, who was assigned as the patrol supervisor. Sgt. Mills is a black female who is 5'4" tall with black hair. In addition, PO Carvajal and PO Rodriguez stated that she was present during this incident.

PO West and PO Nedd were assigned to Sector A and are both black female officers. PO Nedd and PO West were not interviewed. They are not possible subjects of any allegations and there was no indication they were involved with § 87(2)(b) or § 87(2)(b) according to any statement.

§ 87(2)(b) did not observe the officer who she alleged used the word "nigger," but stated that a male officer, who stood directly behind her, made this statement. She added that she knew that PO Rodriguez stood behind her.
§ 87(2)(g)

§ 87(2)(b) stated that the same female officer who initially entered her apartment is the officer who pepper sprayed her. § 87(2)(g)

PO Ramos acknowledged that he used pepper spray against § 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that multiple officers, whom she could not provide a physical description of used physical force against § 87(2)(b) § 87(2)(b) did not provide a sworn statement. § 87(2)(g)
§ 87(2)(b)

§ 87(2)(b) did not observe the officer whom she alleged used the word “bitch.” § 87(2)(b) was only able to indicate that a male stated that word. She would not be able to recognize the officer in a photo array and there is no need to interview additional officers. § 87(2)(b) did not provide a statement. No officer stated that either of these words was used. § 87(2)(g)

Undisputed Facts

On March 15, 2008, at approximately 12:00 PM, PO Carvajal and PO Rodriguez responded to § 87(2)(b) in the Bronx, in regard to a family dispute. § 87(2)(b) was told to leave the apartment. § 87(2)(b) yelled, cursed, and acted disorderly. PO Dybski, PO Eirand, PO Ramos, and PO McRae arrived at the location along with other officers. § 87(2)(b) did not leave the location and continued to be disorderly. PO Ramos pepper sprayed § 87(2)(b). § 87(2)(b) was handcuffed and transported to the stationhouse for § 87(2)(b).

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) stated that she was in a close proximity to her son and he was not leaving the incident location as he was told to do. § 87(2)(b) stated that § 87(2)(b) was not saying anything or doing anything and PO Carvajal approached her and pepper sprayed her directly in the eyes. § 87(2)(b) then stated that after she was pepper sprayed, she observed PO Rodriguez pepper spray § 87(2)(b). § 87(2)(b) stated that she was never offered medical treatment, never requested medical treatment, and never sought medical treatment. Though § 87(2)(b) did not provide a statement to CCRB, in his brief phone statement he made no allegations of pepper spray on his mother’s behalf. By all officer accounts, PO Carvajal did not discharge her pepper spray and the only civilian AIDED report was prepared for § 87(2)(b). No other officer discharged their pepper spray and there were no discharge reports prepared in regard to § 87(2)(b).

By all accounts, § 87(2)(b) stood in a close proximity to § 87(2)(b) at the time he was pepper sprayed. Based on § 87(2)(b) s own statement she stood between § 87(2)(b) and officers. § 87(2)(g)

§ 87(2)(b) PO Carvajal and PO Rodriguez also were affected by the pepper spray discharged at § 87(2)(b) and they were treated at the hospital.

§ 87(2)(b) stated that she was able to see her son being pepper sprayed after she was already sprayed and observed officers subsequently taking him to the ground and using force against him. She stated that although she observed officers use physical force against § 87(2)(b) she then could not see or describe those officers because she lost her vision. Throughout her statement, § 87(2)(b) stated that she went in and out of blindness after she alleged that she was pepper sprayed. She described an officer whom she stated escorted her to her apartment, but then stated that she could not see where she was standing or where her apartment was. § 87(2)(b) also specifically stated that she stood in the middle of the street, in front of the patrol van that her son was placed in, but could not explain how she saw this because at the same time, she stated she was in the street because she was unable to see her surroundings. § 87(2)(g)

§ 87(2)(b) alleged that § 87(2)(b) was pepper sprayed. PO Ramos stated that he pepper sprayed § 87(2)(b) and an AIDED report was filled out for § 87(2)(b) which stated that § 87(2)(b) was pepper sprayed. § 87(2)(b) also alleged that officers, whom she could not identify, kicked her son in the face and in

his chest. § 87(2)(g)

§ 87(2)(b) stated that she heard a male officer state, “Get that nigger” and shortly after, she heard the same male voice state, “Take that nigger down.” As § 87(2)(b) stated that PO Rodriguez and PO Carvajal stood directly behind her and were the only officers who stood in a close proximity, it is not plausible that PO Rodriguez would make this statement because he is the officer who initially had contact with § 87(2)(b). No officer stated that these statements were made and § 87(2)(b) did not provide a sworn statement. § 87(2)(b) later alleged that after she was pepper sprayed, she walked up to an officer whom she described as a male in uniform who stated, “Yea bitch, you lookin’ for my badge bitch.” § 87(2)(b) did not make this allegation in her initial complaint, and § 87(2)(b) made no allegations of offensive language when he spoke with CCRB. § 87(2)(b) stated that her eye level was at the officer’s chest, but she never observed the officer’s face, race, and never obtained his name because she was blinded by pepper spray. However, she stated that she observed that she stood in between two parked cars when the officer used the word “bitch.” No officer stated that an officer used the word “bitch.” § 87(2)(g)

Allegation A: Offensive Language: PO Raul Rodriguez made remarks to § 87(2)(b) based on race.

PO Rodriguez resigned from the NYPD on September 2, 2008. § 87(2)(g)

Allegation B: Use of Force: PO Olivia Carvajal used pepper spray against § 87(2)(b)

§ 87(2)(g)

Allegation C: Use of Force: PO Hoelmy Ramos used pepper spray against § 87(2)(b)

Allegation D: Use of Force: Officers used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation E: Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(g)

Investigator: Stacy Paver

Date: March 12, 2009

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: